

§ 240.17a-9T Records to be made and retained by certain exchange members, brokers and dealers.

This section applies to every member, broker or dealer registered pursuant to Section 15 of the Act, (15 U.S.C. 78o), that is required to maintain, as of December 29, December 30 and December 31, 1999, minimum net capital of \$250,000 pursuant to § 240.15c3-1(a)(2)(i).

(a) You must make before January 1, 2000, for each of December 29, December 30 and December 31, 1999, separate copies of the blotters pursuant to § 240.17a-3(a)(1).

(b) You must make before January 1, 2000, as of the close of business for each of December 29, December 30 and December 31, 1999, a separate copy of the securities record or ledger pursuant to § 240.17a-3(a)(5).

(c) You must preserve these records for a period of not less than one year.

(d) The provisions of § 240.17a-4(i) shall apply as if part of this § 240.17a-9T.

(e) You may preserve these records in any format that is acceptable and in compliance with the conditions described in § 240.17a-4(f).

(f) You must furnish promptly to a representative of the Commission such legible, true and complete copies of those records, as may be requested.

(g) This temporary section will expire on July 1, 2001.

[64 FR 42029, Aug. 3, 1999]

§ 240.17a-10 Report on revenue and expenses.

(a)(1) Every broker or dealer exempted from the filing requirements of paragraph (a) of § 240.17a-5 shall, not later than 17 business days after the close of each calendar year, file the Facing Page, a Statement of Income (Loss) and balance sheet from Part IIA of Form X-17A-5 (§ 249.617 of this chapter) and Schedule I of Form X-17A-5 (§ 249.617 of this chapter) for such calendar year.

(2) Every broker or dealer subject to the filing requirements of paragraph (a) of § 240.17a-5 shall submit Schedule I of Form X-17A-5 (§ 249.617 of this chapter) with its Form X-17A-5 (§ 249.617 of this chapter) for the calendar quarter ending December 31 of each year.

(b) The provisions of paragraph (a) of this section shall not apply to a member of a national securities exchange or a registered national securities association which maintains records containing the information required by Form X-17A-5 (§ 249.617 of this chapter) as to each of its members, and which transmits to the Commission a copy of the record as to each such member, pursuant to a plan the procedures and provisions of which have been submitted to and declared effective by the Commission. Any such plan filed by a national securities exchange or a registered national securities association may provide that when a member is also a member of one or more national securities exchanges, or of one or more national securities exchanges and a registered national securities association, the information required to be submitted with respect to any such member may be transmitted by only one specified national securities exchange or registered national securities association. For the purpose of this section, a plan filed with the Commission by a national securities exchange or a registered national securities association shall not become effective unless the Commission, having due regard for the public interest, for the protection of investors, and for the fulfillment of the Commission's functions under the provisions of the Act, declares the plan to be effective. Further, the Commission, in declaring any such plan effective, may impose such terms and conditions relating to the provisions of the plan and the period of its effectiveness as may be deemed necessary or appropriate in the public interest, for the protection of investors, or to carry out the Commission's duties under the Act.

(c) Individual reports filed by, or on behalf of, brokers, dealers, or members of national securities exchanges pursuant to this section are to be considered nonpublic information, except in cases where the Commission determines that it is in the public interest to direct otherwise.

(d) In the event any broker or dealer finds that it cannot file the annual report required by paragraph (a) of this section within the time specified without undue hardship, it may file with

Securities and Exchange Commission

§ 240.17a-11

the Commission's principal office in Washington, DC, prior to the date upon which the report is due, an application for an extension of time to a specified date which shall not be later than 60 days after the close of the calendar year for which the report is to be made. The application shall state the reasons for the requested extension and shall contain an agreement to file the report on or before the specified date.

(Sec. 17, 48 Stat. 897; 15 U.S.C. 78q)

[33 FR 10390, July 20, 1968, as amended at 35 FR 3804, Feb. 27, 1970; 35 FR 7644, May 16, 1970; 37 FR 13615, July 12, 1972; 40 FR 59717, Dec. 30, 1975; 42 FR 23789, May 10, 1977; 46 FR 60193, Dec. 9, 1981]

§ 240.17a-11 Notification provisions for brokers and dealers.

(a) This section shall apply to every broker or dealer registered with the Commission pursuant to section 15 of the Act.

(b)(1) Every broker or dealer whose net capital declines below the minimum amount required pursuant to § 240.15c3-1 shall give notice of such deficiency that same day in accordance with paragraph (g) of this section. The notice shall specify the broker or dealer's net capital requirement and its current amount of net capital. If a broker or dealer is informed by its designated examining authority or the Commission that it is, or has been, in violation of § 240.15c3-1 and the broker or dealer has not given notice of the capital deficiency under this § 240.17a-11, the broker or dealer, even if it does not agree that it is, or has been, in violation of § 240.15c3-1, shall give notice of the claimed deficiency, which notice may specify the broker's or dealer's reasons for its disagreement.

(2) In addition to the requirements of paragraph (b)(1) of this section, an OTC derivatives dealer shall also provide notice if its tentative net capital falls below the minimum amount required pursuant to § 240.15c3-1. The notice shall specify the OTC derivatives dealer's net capital and tentative net capital requirements, and its current amount of net capital and tentative net capital.

(c) Every broker or dealer shall send notice promptly (but within 24 hours) after the occurrence of the events spec-

ified in paragraphs (c)(1), (c)(2), (c)(3) or (c)(4) of this section in accordance with paragraph (g) of this section:

(1) If a computation made by a broker or dealer subject to the aggregate indebtedness standard of § 240.15c3-1 shows that its aggregate indebtedness is in excess of 1,200 percent of its net capital; or

(2) If a computation made by a broker or dealer, which has elected the alternative standard of § 240.15c3-1, shows that its net capital is less than 5 percent of aggregate debit items computed in accordance with § 240.15c3-3a Exhibit A: Formula for Determination Reserve Requirement of Brokers and Dealers under § 240.15c3-3; or

(3) If a computation made by a broker or dealer pursuant to § 240.15c3-1 shows that its total net capital is less than 120 percent of the broker's or dealer's required minimum net capital, or if a computation made by an OTC derivatives dealer pursuant to § 240.15c3-1 shows that its total tentative net capital is less than 120 percent of the dealer's required minimum tentative net capital.

(4) The occurrence of the fourth and each subsequent backtesting exception under § 240.15c3-1f(e)(1)(iv) during any 250 business day measurement period.

(d) Every broker or dealer who fails to make and keep current the books and records required by § 240.17a-3, shall give notice of this fact that same day in accordance with paragraph (g) of this section, specifying the books and records which have not been made or which are not current. The broker or dealer shall also transmit a report in accordance with paragraph (g) of this section within 48 hours of the notice stating what the broker or dealer has done or is doing to correct the situation.

(e) Whenever any broker or dealer discovers, or is notified by an independent public accountant, pursuant to § 240.17a-5(h)(2) or § 240.17a-12(f)(2) of the existence of any material inadequacy as defined in § 240.17a-5(g) or § 240.17a-12(e)(2), the broker or dealer shall:

(1) Give notice, in accordance with paragraph (g) of this section, of the material inadequacy within 24 hours of such discovery or notification; and